

AMENDED IN SENATE APRIL 13, 2015

SENATE BILL

No. 717

Introduced by Senator Stone

February 27, 2015

An act to amend Section ~~1269~~ 12022.7 of the Penal Code, relating to ~~bail~~ sentencing.

LEGISLATIVE COUNSEL'S DIGEST

SB 717, as amended, Stone. ~~Bail~~. Sentencing: great bodily injury: murder or manslaughter.

Existing law provides that a person who inflicts great bodily injury on another person in the commission or attempted commission of a felony, including a person who is 70 years of age or older, or under specified circumstances, including domestic violence, shall be punished by additional and consecutive terms of imprisonment, as specified. Existing law makes these provisions inapplicable to murder or manslaughter.

This bill would instead provide that those provisions are inapplicable to great bodily injury suffered by the victim of murder or manslaughter. The bill would specify that this provision does not preclude a person from being subject to an additional and consecutive term of imprisonment for great bodily injury, whether resulting in death or not, suffered by a victim other than the victim who is the subject of the murder or manslaughter charge. By expanding the applicability of an enhancement that must be pled and proved, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law provides that the taking of bail consists of the acceptance, by a competent court or magistrate, of the undertaking of sufficient bail for the appearance of the defendant, according to the terms of the undertaking, or that the bail will pay to the people of this state a specified sum.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12022.7 of the Penal Code is amended
2 to read:

3 12022.7. (a) Any person who personally inflicts great bodily
4 injury on any person other than an accomplice in the commission
5 of a felony or attempted felony shall be punished by an additional
6 and consecutive term of imprisonment in the state prison for three
7 years.

8 (b) Any person who personally inflicts great bodily injury on
9 any person other than an accomplice in the commission of a felony
10 or attempted felony which causes the victim to become comatose
11 due to brain injury or to suffer paralysis of a permanent nature
12 shall be punished by an additional and consecutive term of
13 imprisonment in the state prison for five years. As used in this
14 subdivision, "paralysis" means a major or complete loss of motor
15 function resulting from injury to the nervous system or to a
16 muscular mechanism.

17 (c) Any person who personally inflicts great bodily injury on a
18 person who is 70 years of age or older, other than an accomplice,
19 in the commission of a felony or attempted felony shall be punished
20 by an additional and consecutive term of imprisonment in the state
21 prison for five years.

22 (d) Any person who personally inflicts great bodily injury on a
23 child under the age of five years in the commission of a felony or
24 attempted felony shall be punished by an additional and

consecutive term of imprisonment in the state prison for four, five, or six years.

(e) Any person who personally inflicts great bodily injury under circumstances involving domestic violence in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for three, four, or five years. As used in this subdivision, “domestic violence” has the meaning provided in subdivision (b) of Section 13700.

(f) As used in this section, “great bodily injury” means a significant or substantial physical injury.

(g) (1) This section shall not apply to ~~murder or manslaughter~~ or a violation of Section 451 or 452. Subdivisions (a), (b), (c), and (d) shall not apply if infliction of great bodily injury is an element of the offense.

(2) *This section does not apply to great bodily injury suffered by the victim of murder or manslaughter. This paragraph does not preclude a person from being subject to an additional and consecutive term of imprisonment for great bodily injury, whether resulting in death or not, suffered by a victim other than the victim who is the subject of the murder or manslaughter charge.*

(h) The court shall impose the additional terms of imprisonment under either subdivision (a), (b), (c), or (d), but may not impose more than one of those terms for the same offense.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 1269 of the Penal Code is amended to read:~~

~~1269. (a) The taking of bail consists of the acceptance, by a competent court or magistrate, of the undertaking of sufficient bail for the appearance of the defendant, according to the terms of the undertaking, or that the bail will pay to the people of this state a specified sum. Upon filing, the clerk shall enter in the register of actions the date and amounts of the bond and the name or names~~

1 of the surety or sureties of the bond. In the event of the loss or
2 destruction of the bond, the entries made shall be prima facie
3 evidence of the due execution of the bond as required by law.
4 (b) If bail bond has been deposited in a criminal action or
5 proceeding in a superior court or in a proceeding in habeas corpus
6 in a superior court, and it appears to the satisfaction of the court
7 from affidavits or testimony in open court that more than three
8 years have elapsed since the exoneration or release of bail, the
9 court shall direct that the bond be destroyed.

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